IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 152 OF 2007

Vijay D. Kate and others ..Petitioners

Versus

Pimpri Chinchwad Municipal Corpn. And others .. Respondents

Mr. Dhananjay C. Pathak for the petitioner.
Mr. Deepak More for respondent Nos. 1 to 3.
Mr. P.M. Patil, Assistant Government Pleader, for respondent Nos. 4 to 7 and 9.

CORAM: **H.L. GOKHALE, Ag. C.J.,** & **V.M. KANADE, J.**

DATE: **JANUARY 15, 2007**.

P.C.

Heard Mr. Dhananjay Pathak in support of this petition. Mr. Deepak More appears for respondent Nos. 1 to 3 and Mr. P.M. Patil, Assistant Government Pleader, appears for respondent Nos. 4 to 7 and 9.

2. The petitioner has filed a suit in the Court of 9th Joint Civil Judge, Senior Division, Pune, being Regular Civil Suit No. 357 of 2006. His grievance is that certain part of his property has been acquired by

respondent No.1 for various purposes. However, an area of 2776.23 sq.metres therefrom has not been acquired. He has, therefore, filed a suit for an appropriate declaration and, in fact, there is an order of injunction passed on 16th August, 2006 that the defendants should not create any type of claim, interest or right in regard to the area of the suit property. The grievance of the petitioner is that in spite of this order, some further steps are being taken by the respondents. It is for this reason that he has filed this writ petition in this Court. The proper remedy for the petitioner will be to move an appropriate application in the pending suit and for that matter even one under Order 39 Rule 2-A of the Civil Procedure Code for the breach of that order, if that is his case. Mr. Pathak seeks leave to withdraw the writ petition with a view to move an appropriate application in the trial Court. Petition is disposed of as withdrawn with liberty.

ACTING CHIEF JUSTICE

V.M. KANADE, J.